

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: PAYMENT AGREEMENTS	DOCKET NO. RMU-99-9
----------------------------------	---------------------

ORDER ADOPTING RULES

(Issued May 2, 2000)

Pursuant to the authority of Iowa Code §§ 476.20, 476.1, 476.2(1), and 17A.4 (1999), the Utilities Board adopts the amendments attached hereto and incorporated by reference. These rules adopt amendments to 199 IAC 19.4(10)"c" and 20.4(11)"c." The reasons for these amendments are set forth in the attached notice of intended action.

IT IS THEREFORE ORDERED:

1. The amended rules attached hereto, and incorporated by this reference, are adopted by the Board, effective July 5, 2000.

2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr. /s/ Diane Munns
Executive Secretary

Dated at Des Moines, Iowa, this 2nd day of May, 2000.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.4(2), 17A.5(2)"b"(2), 476.20, and 476.2 (1999), the Utilities Board (Board) gives notice that on May 2, 2000, the Board issued an order in Docket No. RMU-99-9, In re: Payment Agreements, "Order Adopting Rules," which amend the Board's subrules 19.4(10)"c" and 20.3(11)"c," relating to bill payment agreements between a utility and a customer.

On September 17, 1999, the Board issued an order commencing a rule making to receive public comment on the adoption of these revisions. The Notice of Intended Action was published in the IAB Vol. XXII, No. 7 (10/6/99) p. 579, as ARC 9399A. Written comments were filed on or before October 26, 1999, and a public hearing to receive oral comments was held on November 4, 1999.

The proposed revisions to the rules set up a system that would enable the utility and the customer to enter into an oral payment agreement. In general, the proposed amendments state the customer and the utility may enter into a payment agreement over the telephone or through electronic transmission. In the preamble to the rule making, the Board stated the amendments reflect the fact that several of the large utilities have closed offices and most customer business is transacted by phone or mail. The Board's current rules were amended because there had been instances where payment plans were negotiated over the phone because customers were not necessarily able to travel to a utility office or had to take time off from work.

Written comments were filed by MidAmerican Energy Company (MidAmerican), IES Utilities Inc. (IES), Interstate Power Company (Interstate), the Consumer

Advocate Division of the Department of Justice (Consumer Advocate), Peoples Natural Gas Company (Peoples), the Iowa Association of Electric Cooperative (IAEC), the Iowa Association of Municipal Utilities (IAMU), and Legal Services Corporation of Iowa (Legal Services).

In reviewing the rules and Consumer Advocate's comments, the Board became aware that one version of the rule amendment had been inadvertently proposed for electric at subrule 19.4(10)"c" and another for gas subrule 20.4(11)"c." At the oral presentation, the Board stated that it was the Board's intention to notice the amendments to the 20.4(11)"c" electric rules the same version that was noticed for the 19.4(10)"c" gas rules. The Board will adopt the amendments in a manner consistent with the proposal for subrule 19.4(10)"c."

MidAmerican suggests giving the customer until three days after the first bill is received by the customer to respond. The Board does not find MidAmerican's suggestion practical due to variances in utility company billing systems and the timing of the payment agreements.

MidAmerican also suggested a restriction that customers who have rejected two payment agreements must make full payment in order to avoid disconnection. The Board will not adopt MidAmerican's suggestion because it is beyond the scope of this docket.

MidAmerican recommends that disconnected customers and potentially disconnected customers should be required to make a first payment in order to be

eligible for reconnection. The Board declines to adopt the suggestion because it is beyond the scope of this docket.

IES, Interstate, and the IAEC request clarification of what demonstrates "acceptance" of the terms of the agreement and IES and Interstate suggested language. The Board considers the recommendation for clarification and additional language unnecessary. The rule clearly makes the agreement binding when the customer makes the first payment or if the customer fails to notify the utility within ten days of mailing.

Peoples suggests the addition of the payment agreement language on the bill in lieu of making a separate mailing. The Board is not convinced that the addition of the language on the bill would improve the customer's awareness. Furthermore, utility billing systems vary and the ten-day limit for sending bill payment terms to the customer may not correspond with the timing of a customer bill.

Legal Services recommended that the Board include the same language incorporated in the disconnection notice in the payment plan document. The Board finds the disconnection language would not be applicable because the payment agreement is usually made prior to disconnection. Further, the Board's existing rules address the customer's rights if the utility refuses a payment agreement offered by the customer. See 199 IAC 19.4(10)"d" and 20.4(11)"d."

Legal Services stated it supports most of the language of the proposed rules but would like a provision added that utilities should not be allowed to require a substantial up-front payment. Paragraphs 19.4(1)"c" and 20.4(11)"c" currently

require that a utility must offer customers or disconnected customers the option of spreading payments evenly over at least 12 months. However, this requirement only applies to the first payment agreement. The Board declines to add any additional language to the rules because it would be beyond the scope of the noticed rule making.

Legal Services suggested the proposed rules be modified to include a foreign language requirement. Although the Board can see some benefit in such a requirement, it is likely beyond the scope of the notice in this docket. The Board will not adopt any foreign language requirement at this time.

IAMU states its members should not be required to enter into oral payment agreements because they maintain local offices and it is not a hardship for their customers to come in to the office. The proposed rules do not require a utility to offer customers oral agreements. Under the proposed rules, a utility may offer a customer the option of making the agreement over the telephone or through electronic transmission. While the proposed rules do not require a utility to give customers the opportunity to enter into an oral or electronic agreement, the Board strongly urges the companies to be as flexible as possible for the convenience of the customer.

Consumer Advocate raised a concern that payment agreements by telephone could pose evidentiary problems because there is no record of the agreement. Consumer Advocate suggested the Board not dictate the procedure but insist the

companies offer the agreement and take reasonable and prudent steps to secure evidence of the agreement.

The Board finds merit in Consumer Advocate's suggestion. MidAmerican was the only utility to address the issue. At the oral presentation, MidAmerican expressed a willingness to take the risk that the evidence it would have would be sufficient. The Board believes the amendments confer a benefit to the consumer and the utility. The company is in the best position to solve any evidentiary problems that may arise and should take whatever reasonable steps it deems necessary to protect its interests.

Finally, IAEC submits that the amendments do not provide for execution of written agreements at locations other than a company facility nor do they provide for verbal agreements to be reached in person. The Board did not intend to limit opportunities for making an agreement in person to only when the customer is at the company facility. There may be instances when a company representative will meet elsewhere with the customer and it may be appropriate for a payment plan to be negotiated and signed at that time. The Board finds merit in IAEC's suggestion and will revise the rules accordingly.

The suggestions set forth in some of the written comments have been noted, in several instances, as being outside the scope of this rule making. The Board will be reviewing paragraphs 19.4(1)"c" and 20.4(11)"c" as a part of the comprehensive review under Executive Order Eight in the future and participants may raise these issues at that time.

The changes to the noticed amendments only clarify and make more general the amendments originally proposed in the notice. They are, therefore, in character with the original scheme and a logical outgrowth of the notice and comment already given. See, Iowa Citizen Labor Energy Coalition v. ISCC, 335 N.W.2d 178 (1983).

These amendments are intended to implement Iowa Code sections 476.2, 476.3 and 476.20.

These amendments will become effective on July 5, 2000.

The following amendments are adopted:

Item 1. Amend paragraph 199-19.4(10)"c" as follows:

199-19.4(10)"c" Terms. The agreement may require the customer to bring the account to a current status by paying specific amounts at scheduled times. The utility shall offer customers or disconnected customers the option of spreading payments evenly over at least 12 months. Payments for potential customer agreements may be spread evenly over at least six months.

The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules.

When the customer makes the agreement in person, a A signed copy of the agreement shall be provided to the customer, disconnected customer or potential customer.

The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility will render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement. The document will be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement.

Second agreement. If a customer has retained service from November 1 through April 1 but is in default of a payment agreement, the utility may offer the customer a second payment agreement that will divide the past-due amount into equal monthly payments with the final payment due by the fifteenth day of the next October. The utility may also require the customer to enter into a level payment plan to pay the current bill.

The customer who has been in default of a payment agreement from November 1 to April 1 may be required to pay current bills based on a budget estimate of the customer's actual usage, weather normalized, during the prior 12-month period or based on projected usage if historical use data is not available.

Item 2. Amend paragraph 199-20.4(11)"c" as follows:

199-20.4(11)"c" Terms. The agreement may require the customer to bring the account to a current status by paying specific amounts at scheduled times. The utility shall offer customers or disconnected customers the option of spreading payments evenly over at least 12 months. Payments for potential customer agreements may be spread evenly over at least six months.

The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules.

When the customer makes the agreement in person, a A signed copy of the agreement shall be provided to the customer, disconnected customer or potential customer.

The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility will render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement. The document will be considered rendered to the customer when deposited in the

U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for the payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement.

Second agreement. If a customer has retained service from November 1 through April 1 but is in default of a payment agreement, the utility may offer the customer a second payment agreement that will divide the past-due amount into equal monthly payments with the final payment due by the fifteenth day of the next October. The utility may also require the customer to enter into a level payment plan to pay the current bill.

The customer who has been in default of a payment agreement from November 1 to April 1 may be required to pay current bills based on a budget estimate of the customer's actual usage, weather normalized, during the prior 12-month period or based on projected usage if historical use data is not available.

May 2, 2000

/s/ Susan J. Frye
Susan J. Frye
Board Member